

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

IN THE MATTER OF:)	
)	
JAMES E. BAKER and)	Case No. 17-12324
SUZANNE L. BAKER,)	Chapter 7
)	
DEBTORS.)	
_____)	
)	
MARTIN E. SEIFERT, TRUSTEE,)	Adversary Proceeding
)	No. 19-_____
PLAINTIFF,)	
)	
VS.)	
)	
AMERICREDIT FINANCIAL SERVICES, INC.)	
dba GM FINANCIAL,)	
)	
DEFENDANT.)	

COMPLAINT FOR EQUITABLE SUBORDINATION

Martin E. Seifert, Trustee, for his Complaint against Americredit Financial Services, Inc. dba GM Financial, Defendant, alleges and states as follows:

I. Jurisdiction

1. This is an Adversary Proceeding to equitably subordinate Claim No. 2 filed by Americredit Financial Services, Inc. dba GM Financial, P.O. Box 183853, Arlington, Texas 76096, (hereinafter referred to as "Creditor") on February 6, 2018, filed, to all unsecured claims, pursuant to 11 U.S.C. § 510(c).

2. This Court has jurisdiction to hear and determine this Adversary Proceeding pursuant to 28 U.S.C. §1344 and 28 U.S.C. §157.

3. Plaintiff consents to entry of final orders or judgment by the Bankruptcy Court pursuant to Bankruptcy Rule 7008.

4. Venue over this Adversary Proceeding is properly in this District and this Division pursuant to 28 U.S.C. §1409.

5. This matter has been properly brought before this Court as an Adversary Proceeding pursuant to Bankruptcy Rule 7001.

6. This Adversary Proceeding relates to the main case of *James E. Baker and Suzanne L. Baker*, Debtors, Case Number 17-12324 (Chapter 7), in the United States Bankruptcy Court for the Northern District of Indiana, Fort Wayne Division.

II. Parties

7. Plaintiff, Martin E. Seifert, is the duly appointed Chapter 7 Trustee in the case *In The Matter of James E. Baker and Suzanne L. Baker*, Case Number 17-12324 (Chapter 7).

8. Creditor is a creditor in the above-referenced case who has filed a secured claim.

III. Causes Of Action

For his causes of action the Trustee alleges and states:

Count I

9. This case was commenced by the filing of a Chapter 7 Bankruptcy Proceeding.

10. The Trustee marshaled assets for distribution to creditors.

11. All creditors were provided with notice to file a claim.

12. Creditor timely filed a secured claim, designated as Claim No. 2 by the Clerk of the bankruptcy court, showing that claim was secured by property belonging to the Debtors.

13. The Trustee has reviewed all claims.

14. Allowing Creditor, holding a lien on property belonging to the Debtors, to participate equally with unsecured creditors when Creditor may execute against its collateral for recourse, appears to be inequitable.

15. At 11 U.S.C. §510(c) , the Code provides that in these situations, Court may under principles of equitable subordination subordinate for purposes of distribution all or a part of an allowed claim to all or a part of another allowed claim.

WHEREFORE, the Trustee, Martin E. Seifert, prays that the secured claim, designated as Claim No. 2 by the Clerk of the Bankruptcy Court, filed by Americredit Financial Services, Inc. dba GM Financial be equitably subordinated to all unsecured claims, to receive payment after all unsecured claims have been paid in full, with interest, and for all other just and proper relief in the premises.

DATED: April 2, 2019

Respectfully submitted,

**CHAPTER 7 TRUSTEE
444 EAST MAIN STREET
FORT WAYNE, INDIANA 46802
TELEPHONE: (260) 426-0444
FAX: (260) 422-0274
EMAIL: mseifert@hallercolvin.com**

BY:/s/ Martin E. Seifert

**MARTIN E. SEIFERT
I.D. #16857-02**